PROVINCE OF SASKATCHEWAN

11-12

ANNUAL REPORT

MINISTRY OF JUSTICE AND
ATTORNEY GENERAL

Saskatchewan Public
Complaints Commission

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This annual report is also available in electronic format from the Ministry's website at **www.justice.gov.sk.ca**

Letters of Transmittal

Her Honour the Honourable Vaughn Solomon Schofield
Lieutenant Governor, Province of Saskatchewan

May it Please Your Honour:

The undersigned, pursuant to section 15 of *The Police Act, 1990*, is pleased to present the Saskatchewan Public Complaints Commission Annual Report for the period ending March 31, 2012.

Gordon S. Wyant, Q.C.
Minister of Justice and Attorney General

The Honourable Gordon S. Wyant, Q.C.
Minister of Justice and Attorney General

Dear Sir:

The undersigned, pursuant to section 15 of *The Police Act, 1990*, is pleased to present the Saskatchewan Public Complaints Commission Annual Report for the period ending March 31, 2012.

Robert W. Mitchell, Q.C.
Chair

Mission Statement

The Public Complaints Commission (PCC) is an independent panel of non-police persons appointed by the Saskatchewan Government to ensure that both the public and the police receive a fair and thorough investigation of a complaint against the municipal police in Saskatchewan.

One of the main functions of the police is the protection of the general public. Police services realize that their officers must maintain a high degree of public support to effectively carry out their duties. It is recognized that occasions arise when citizens feel they have not been treated fairly by a police officer. For that reason a citizen complaint procedure was set out in *The Police Act, 1990*. It is in the best interest of the public and the police to have citizens' complaints resolved in order to maintain the spirit of co-operation that now exists.

Governing Legislation

Role of the Public Complaints Commission

The PCC consists of five persons, including a chairperson and a vice-chairperson who are appointed by the Lieutenant Governor in Council. By legislation, at least one member must be a person of First Nations ancestry, at least one member must be a person of Métis ancestry, and at least one member must be a lawyer. The chairperson has the delegated authority to exercise the powers and to perform the duties imposed on the PCC.

Canada has long been recognized as a leader in the civilian oversight of the police. In 1992 Saskatchewan introduced legislation that identified a specific agency to address public complaints.

On April 1, 2006 following a consultation process with the Saskatchewan Association of Chiefs of Police, the Federation of Saskatchewan Indian Nations, the Saskatchewan Federation of Police Officers, Métis Family and Community Justice Services, and local police boards, the PCC was created. The PCC replaced the office of the Saskatchewan Police Complaints Investigator.

Pursuant to subsection 39(1) and (2) of *The Police Act, 1990*, the duties of the PCC are as follows:

1. Where the PCC receives a public complaint pursuant to section 38, the PCC shall:
   a. record the complaint received;
   b. establish and maintain a record of all public complaints received by the police services and their dispositions;
   c. inform, advise and assist complainants;
   d. advise and assist the chiefs and boards, the hearing officer and the commission with respect to the handling of public complaints;
   e. monitor the handling of public complaints and ensure that public complaints are handled in a manner consistent with the public interest; and
   f. inspect annually, or at those times directed by the Minister, the records, operations and systems of administration for the handling of public complaints by police services.

2. In exercising the duties of the PCC pursuant to this section, the PCC:

a. shall receive and obtain information respecting a public complaint from the complainant;

b. may receive and obtain information respecting a public complaint from the member or chief who is the subject of the complaint, the chief or the board, in any manner that the investigator considers appropriate;

c. may request access to any files or other material in the possession of the police service relevant to a public complaint; and

d. may interview and take statements from the chief, board, complainant and the member or chief who is the subject of the public complaint.

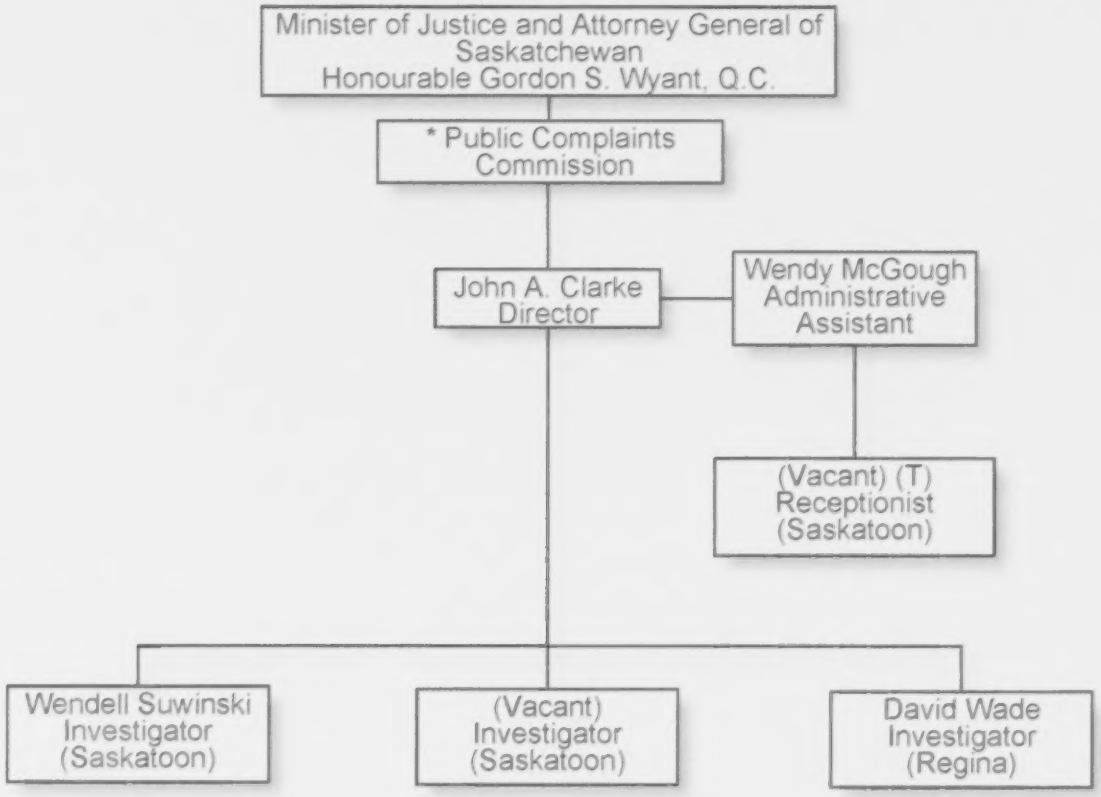
The PCC determines whether the investigation of a public complaint will be conducted by:

- the PCC investigative staff;
- the police service whose member is the subject of the complaint;
- the police service whose member is the subject of the complaint with the assistance of an observer appointed by the PCC to monitor the investigation and report to the PCC; or
- a police service other than the police service whose member is the subject of the complaint

The *Police Act, 1990* states that the Chief of Police is responsible for the maintenance of discipline. Although the majority of the PCC's findings are accepted by police chiefs, the findings are not binding on the Chiefs.

From time to time, differences of opinion with police chiefs have arisen and have resulted in healthy debate. While consensus is not always reached, the differences speak to the independence of the PCC.

Organizational Structure



* The PCC consists of five individuals including a chairperson and vice-chairperson. Members are appointed by the Lieutenant Governor in Council.

Public Complaints Commission

Members of the Public Complaints Commission

Members are appointed for a three-year term and may be reappointed for a second term. However, no member may be appointed to more than two successive terms.

Members meet twice a month to review new complaints, receive briefings on current investigations, and reach consensus on final determinations of completed investigations that culminate in written decisions.

Chair:

Robert W. Mitchell, Q.C., Regina

Vice Chair:

Catherine M. Knox, Lawyer, Saskatoon

Members:

- Loretta Elford, Regina, a former Director of Education with the Regina Public School Board and active community member
- Raymond Fox, North Battleford, member of the Sweetgrass First Nation, Director of Justice, Battlefords Tribal Council, and a councillor for the City of North Battleford
- Michel Maurice, Saskatoon, Métis Elder

Director:

John Clarke, responsible for the administration and daily operation of the PCC.

Administrative Staff/ Accommodation

Saskatchewan Public Complaints Commission
Suite 300 - 1919 Saskatchewan Drive
REGINA SK S4P 4H2

Telephone: (306) 787-6519
Fax: (306) 787-6528
Toll Free: 1-866-256-6194

Saskatchewan Public Complaints Commission
916 - 122 3rd Avenue North
SASKATOON SK S7K 2H6

Telephone: (306) 964-1450
Fax: (306) 964-1454

Website: **www.publiccomplaintscommission.ca**

Message from the Chair

Civilian oversight of police conduct is now accepted by every jurisdiction in Canada as an essential element of law enforcement. The system of oversight that has evolved in Saskatchewan is widely regarded as one of the best in the country.

Central to the Saskatchewan approach is that the Commission employs three highly qualified and experienced full-time investigators who are assigned to investigate sensitive or controversial public complaints. We realize the public is sceptical about police investigating police, and our investigators bring a high degree of independence and integrity to the process. We greatly appreciate their service and dedication.

We must also thank our Director, John Clarke, and our excellent administrative staff for their extraordinary services in support of our program.

I wish to extend my personal gratitude to the members of the PCC for their untiring efforts and dedication to the independence of the public complaint process. Commission members must make some unpopular decisions from time-to-time as they seek to ensure the public interest is well served. Commission members diligently ensure that members of the public and the police are guaranteed a fair and unbiased review of a public complaint. Commission members are not full-time employees and their commitment to this process is maintained despite their professional pursuits.

The PCC has completed six years of service to the citizens of Saskatchewan and continues to have the support of the policing community. Chiefs of Police, senior officers, the officers involved in the front line service delivery of municipal policing services, as well as the associations representing those police officers, have all voiced their support. Our investigative staff has worked diligently to conduct unbiased investigations ensuring that both the public and the police officers are guaranteed a fair, thorough and impartial review of all the circumstances surrounding allegations of misconduct.

Robert W. Mitchell, Q.C.
Chair

Progress in 2011-12

2011-12 Key Commitments

- Continue to receive, review and investigate complaints against Saskatchewan municipal police.
- Continue to review the public complaint investigative process, ensuring consistent quality and the reduction of the time taken to resolve public complaints.
- Maintain an active role with the Canadian Association of Civilian Oversight for Law Enforcement (CACOLE) and continue to liaise with provincial and federal counterparts.
- Continue to participate in conferences that provide a forum for police officers, whose primary role is the investigation of public complaints on behalf of the PCC.
- Continue to engage with the Commission for Public Complaints Against the RCMP, particularly in light of proposed amendments to the *RCMP Act* which may provide for increased interaction with provincial bodies responsible for civilian oversight.
- Publication of the PCC's decisions on an ongoing basis on our website.
- Continue to lecture at the Saskatchewan Police College to various courses on the issues surrounding the public complaint process, specifically identifying areas of concern.
- Continue to encourage the use of mediation to resolve public complaints.
- Maintain contact with all stakeholders.
- Host a fall seminar for those involved in the public complaint process to promote discussion about effective methods of addressing public complaints.

2011-12 Results

- Received, reviewed and investigated complaints against Saskatchewan municipal police.
- The investigative process continues to evolve incorporating audio/visual recordings of detention facilities which have proven to be extremely valuable. Situations have arisen where complainants have been provided the opportunity to view recordings of their booking in procedures which clearly do not support their recollection of the events.
- The PCC maintained an active role with CACOLE. The Chair and Director attended the annual conference in Canmore, Alberta as well CACOLE's annual planning session held in Ottawa, Ontario. CACOLE continues to provide a highly regarded forum for all Canadian and international civilian oversight agencies, sharing experiences and research results, and remains an excellent means of communicating with our provincial counterparts. The personal contacts established through CACOLE continue to be an invaluable source of information. CACOLE also includes representatives from the various major incident investigating bodies such as Ontario's Special Investigation Unit and Alberta's Serious Incident Response Team.
- The Director attended a Professional Development Seminar hosted by British Columbia's Police Complaint Commissioner in Victoria, British Columbia. Discussions relative to the public complaints process and serious incident investigations were informative.
- The Director and Chair attended the annual conference hosted by the Commission for Public Complaints Against the RCMP. This conference promotes improved relationships between the federal and various provincial bodies responsible for independent police oversight.

- The PCC continues to explore the most viable option for the publication of our decisions on the PCC's website having due regard for the issues surrounding privacy of the individuals named within our reports.
- The PCC continues to provide lectures to the recruit classes at the Saskatchewan Police College. Lectures were provided to the Field Training Officers and Police Supervisors at the Police College to address two of the primary concerns noted in our last year's report; the use of distraction strikes to gain compliance and lack of, or inadequate, supervision.
- The use of mediation to resolve public complaints, while effective when used, was in the PCC's estimation under used during the past year. The process, designed to reduce the amount of time required to address concerns, was taking too long to deal with relatively minor matters. The current mediation method will be re-evaluated during the coming year.
- Maintain contact with all stakeholders: Saskatchewan Information and Privacy Commissioner; Saskatchewan Ombudsman; Saskatchewan Human Rights Commission; Public Prosecution Division of the Ministry of Justice and Attorney General; Coroner's Office; Saskatchewan Police Commission; and local boards of police commissioners.
- The PCC attended annual meetings of the Saskatchewan Federation of Police Officers and the Saskatchewan Association of Chiefs of Police. These forums promote an open, essential dialogue between the associations and the PCC.
- Daily contact was maintained with individual Chiefs of Police and those police officers assigned to the Professional Standards Sections of the Regina and Saskatoon Police Services. Unfortunately, the PCC did not receive the level of co-operation anticipated from the Special Investigation Unit of the Federation of Saskatchewan Indian Nations
- The PCC hosted a fall seminar for those involved in the public complaint process to particularly address two areas of concern: the use of distraction strikes to gain compliance and issues surrounding the supervision of subordinate officers. Saskatchewan Police College Self Defense Instructors provided a hands on demonstration of the techniques taught at the college. There appears to be a disconnect between what police recruits are learning and what is being applied at street level. This resulted in increased in-service training in this area and the PCC has noticed improvements in the articulation in police reports and the near elimination of references to distraction strikes to gain compliance of combative individuals.
- The seminar discussed concerns with the level of supervision being provided by Field Training Officers and those officers declaring reports. The PCC's counterparts across Canada indicate this is a common problem which is not unique to municipal policing or Saskatchewan.

Matters of Concern

The PCC's 2010-2011 Annual Report identified concerns with the quality of police officers' notebooks, insufficient articulation in police reports, lack of conciliatory verbal skills, and issues surrounding the supervision of junior police officers. Although efforts have been made by the policing community to make improvements and hold officers accountable, the PCC will continue to monitor this area and make appropriate recommendations when necessary.

The relationship between the PCC and the Special Investigation Unit of the Federation of Saskatchewan Nations saw little improvement during this current reporting period. The PCC understands that there has been a change in personnel and hopefully the working relationship can be greatly improved.

2012-13 Plans

- Ensure the mandate of the PCC to receive, review and investigate complaints against Saskatchewan municipal police is provided in a timely, concise manner.
- Continue the ongoing review of the public complaint process, maintaining and improving the consistent quality of investigations.
- Maintain an active role with CACOLE and maintain our liaison with our provincial and federal counterparts.
- Participate in meaningful conferences that provide a forum for police officers, whose primary function is the investigation of public complaints on behalf of the PCC.
- Continue to engage with the Commission for Public Complaints Against the RCMP, as it is anticipated the proposed amendments to the *RCMP Act* permitting increased interaction with provincial oversight bodies will come into effect during 2012-2013.
- Continue to lecture at the Saskatchewan Police College to various courses on the issues surrounding the public process, particularly to police recruits, Field Training Officers and front line supervisors.
- Review the current mediation process in an effort to streamline and decrease the amount of time required to bring the complainant and subject police officer together.
- Evaluate the need for a fall seminar to address specific areas of concerns identified by the public complaint process.

2011-12 Performance Measures

The statistics set out in the tables on this page are for the period April 1 to March 31, for the fiscal years 2008-09, 2009-10, 2010-11 and 2011-12. The following pages show the breakdown of complaints for each of the ten municipal police services and four rural municipality police services in the province during the 2011-12 fiscal year.

Number of Complaint Files Opened

Police Service	2008-09	2009-10	2010-11	2011-12
Regina	46	51	44	45
Saskatoon	73	79	82	75
Moose Jaw	2	2	3	4
Prince Albert	14	10	19	5
Estevan	6	10	1	3
Weyburn	1	1	3	1
Caronport	0	0	0	0
Dalmeny	1	0	0	0
File Hills	0	0	0	4
Luseland	0	0	0	0
R.M. of Corman Park	0	1	0	2
R.M. of Lakeland	0	0	0	2
R.M. of Vanscoy	0	0	0	0
R.M. of Wilton	1	0	0	0
Total Number of Files	*144*	*154*	*152*	*141*

The table below shows the percentage of complaint files that fall within certain time-frames, during which the complaint is received, investigated, reviewed and the complainants are advised of the action taken with respect to their concerns.

Percentage of Complaint Files Completed Within Given Time-frames

Days	2008-09	2009-10	2010-11	2011-12
0 - 30	31	18	20	28
31 - 60	7	16	12	6
61 - 90	8	4	5	3
91 - 120	1	4	1	6
121 - 150	4	3	3	3
151 - 180	1	1	1	1
Over 181	10	19	9	6
Pending	38	35	49	47

Statistical Data

Findings of Complaints Received

April 1, 2011 to March 31, 2012

Police Service	Substantiated	Unsubstantiated	Unfounded	Withdrawal/Other	S.45(5)**	Informal Resolution	Service	Not Yet Completed	Total
Regina	1	1	5	3	16	1	1	22	50
Saskatoon	1	1	18	16	9	0	3	37	85
Moose Jaw	6	0	2	0	1	0	0	0	9
Prince Albert	0	0	1	0	3	0	0	2	6
Estevan	0	0	1	1	2	0	0	0	4
Weyburn	0	0	0	0	0	0	0	1	1
Caronport	0	0	0	0	0	0	0	0	0
Dalmeny	0	0	0	0	0	0	0	0	0
File Hills	0	0	0	0	2	0	0	2	4
Lestock	0	0	0	0	0	0	0	0	0
R.M. Corman Park	0	0	0	0	0	0	0	2	2
R.M. Lakeland	0	1	1	0	0	0	0	0	2
R.M. Vanscoy	0	0	0	0	0	0	0	0	0
R.M. Wilton	0	0	0	0	0	0	0	0	0
Total*	8	3	28	20	33	1	4	66	163

* While only 141 complaints were filed, some had multiple complaints and findings.

** Under S.45(5) of *The Police Act, 1990* circumstances did not require investigation or, during the course of the investigation, it was determined that circumstances no longer supported the continuation of the investigation.

Definition of Complaint Findings

- Substantiated - supported by evidence
- Unsubstantiated - allegation cannot be proved or disproved
- Unfounded - unsupported by evidence

Definition of Descriptions

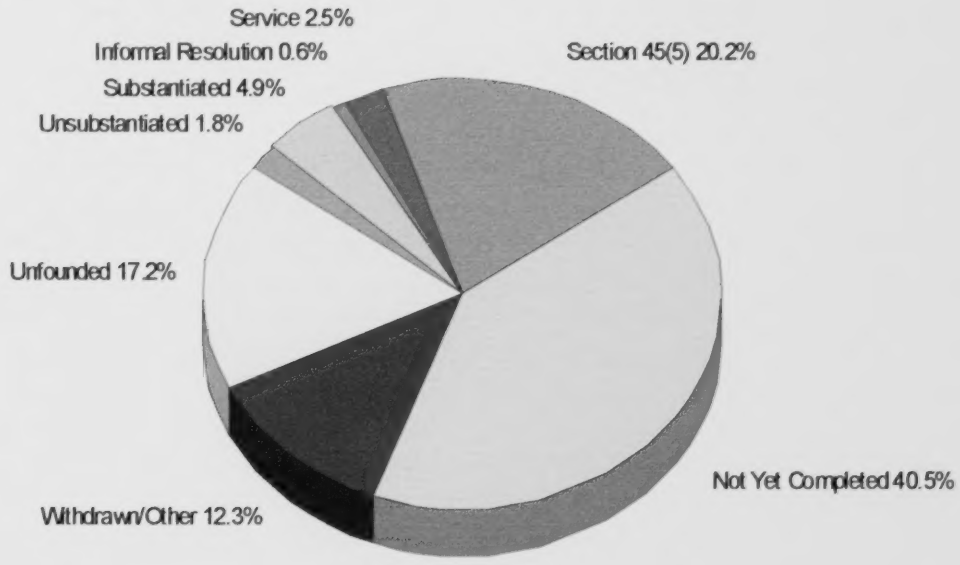
- 36Av - Discreditable Conduct
- 36C - Neglect of Duty
- 36Aii - Discreditable Conduct
- 36Av - Discreditable Conduct
- 37E - Abuse of Authority

Classification of Substantiated and Unsubstantiated Complaints

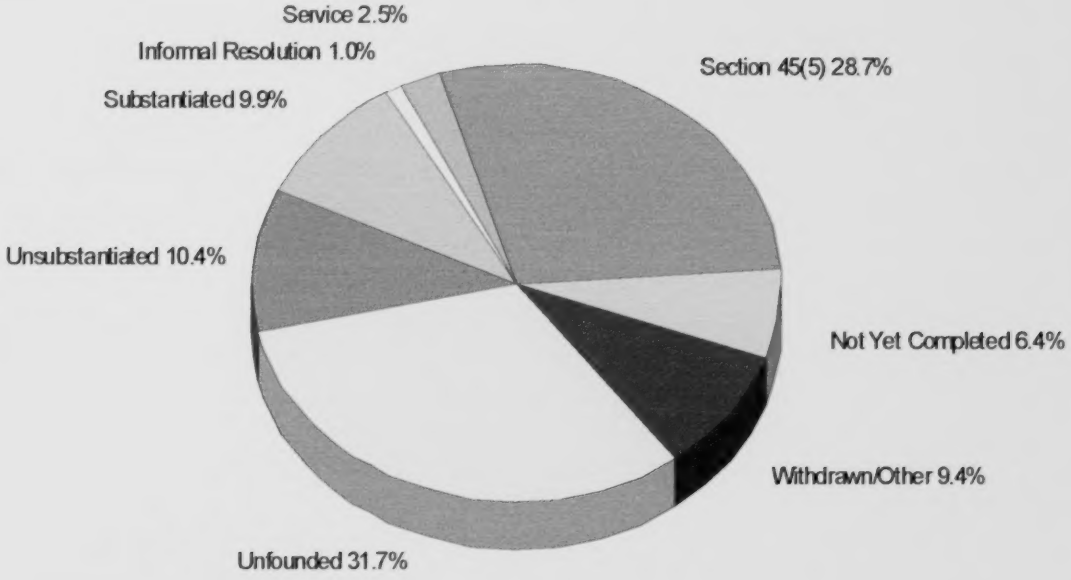
April 1, 2011 to March 31, 2012

Police Service	Substantiated	Description
Saskatoon	1	36C
Regina	1	37E
Moose Jaw	3	36C
	3	36Aii
Police Service	**Substantiated**	**Description**
Regina	1	36Av
R.M. Lakeland	1	37E
Saskatoon	1	36Av

Complaint Findings
April 1, 2011 to March 31, 2012

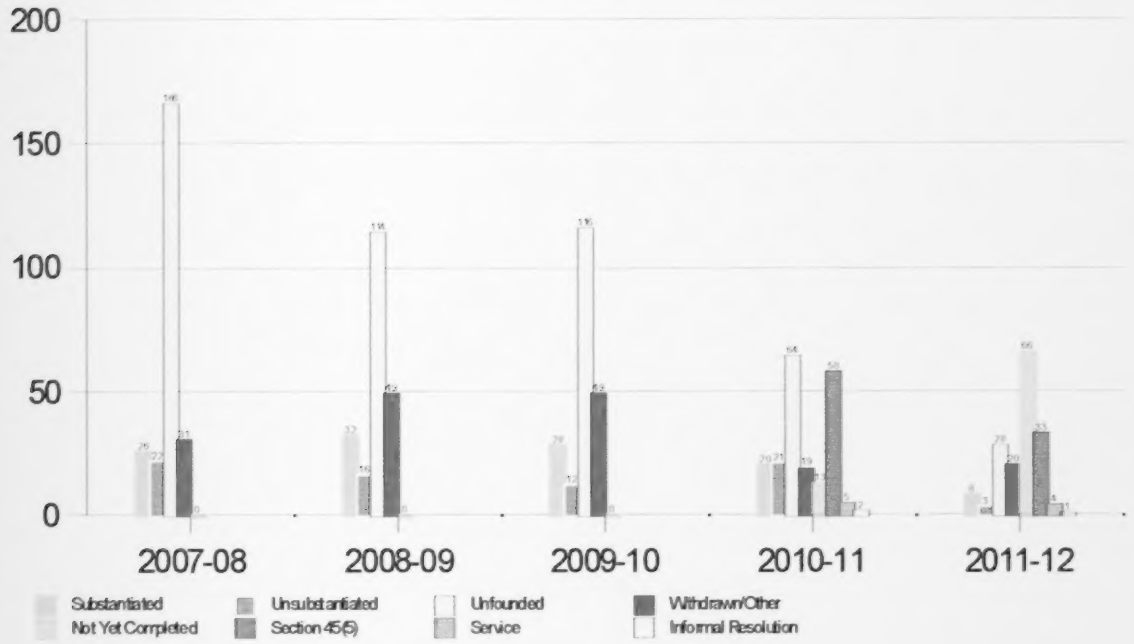


Revised Complaint Findings
April 1, 2010 to March 31, 2011



Five-year Comparative Statistics

2007-08 to 2011-12



This table shows the status of complaints filed in each fiscal year as of March 31, 2012.

Types of Complaints Received

April 1, 2011 to March 31, 2012

Type of Complaint	Regina	Saskatoon	Moose Jaw	Prince Albert	Estevan	Weyburn	Caronport	Dalmeny	Luseland	File Hills	Corman Park	Lakeland	Vanscoy	Wilton	Total
Discreditable Conduct	8	14	5	0	1	0	0	0	0	0	0	1	0	0	29
Neglect of Duty	9	14	3	3	2	0	0	0	0	1	0	0	0	0	32
Insubordination	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Improper Disclosure of Information	0	2	0	0	0	0	0	0	0	0	0	0	0	0	2
Corrupt Practice	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Abuse of Authority	11	18	1	1	1	0	0	0	0	0	0	1	0	0	33*
Improper use of Firearms	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Damage to Police Property	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Improper Wearing of Uniform	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Misuse of Liquor/ Drugs	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Criminal Conduct	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Others	0	2	0	0	0	0	0	0	0	1	0	0	0	0	3
Not Yet Completed	22	37	0	2	0	1	0	0	0	2	2	0	0	0	66

* Of the 33 Abuse of Authority allegations, 14 were for Unnecessary Use of Violence.

Case Summaries

The case summaries provided are a cross-section of the types of complaints received.

Ms. V

Ms. V complained that officers failed to conduct an adequate investigation that she had been assaulted and the individual who had assaulted her was not charged, the investigation was not conducted in a timely manner and the investigators ignored her subsequent request for a restraining order.

The police records and reports related to these incidents were reviewed and the officers associated to the investigation were interviewed. The documentation indicates that officers spoke to Ms. V at the hospital and an officer obtained a brief verbal report of events from her and noted various visible injuries and bleeding which were photographed. The officer reported that she was very agitated, upset and appeared under the influence of an intoxicant. The officer believed she was safe at that time, receiving medical treatment and in the company of a friend. The officer requested that Ms. V come to the police station the following day to provide a detailed statement. Other officers were immediately dispatched to arrest the alleged suspect in the assault. The accused did not respond to the apartment door and was not located at that time. The officers made various observations in the area, including apparent fresh blood stains in the hall and stairway area of the building.

The following day a statement was taken from Ms. V and further photographs of her injuries obtained. The suspect was arrested, interviewed and voluntarily provided his version of events. Inquiries were made with the citizens who found Ms. V beside the street, the ambulance and nursing personnel who tended Ms. V, and her friend to whom she first related the events. The related reports were submitted for review by the Crown prosecutor.

Prior to the investigator being advised of the decision of the Crown prosecutor, Ms. V attended the police station and provided additional details and information about her injuries. This information was provided to the Crown prosecutor. In addition, she reported that she had received communications from the suspect and was afraid for her well being and that of her children. This allegation was assigned to an officer for investigation. When the officer became aware of the decision of the Crown prosecutor to not recommend charges related to the assault incident, he communicated with the prosecutor to ensure that all related information had been reviewed. As a result, further photographs, statements and information from Ms. V were provided and the entire matter re-reviewed with the same result.

Reports reveal that investigation of harassing communications and contact by Ms. V's estranged boyfriend continued. She identified incidents where she believed the suspect had left items on her vehicle or at her place of work, sent written and electronic correspondence and possible contact through internet social media. The file documented a number of contacts with Ms. V to clarify information about past incidents, arranging copies of emails, voice messages and made enquiries to establish the source of questioned messages. The results of this investigation were reviewed by the Crown prosecutor. This led to Ms. V swearing an Information under section 810 of the *Criminal Code*, a process known as a Peace Bond; and the issue of a warrant to arrest the accused. Subsequently, the accused appeared in court and was released on a Recognizance. The court was persuaded the accused had reason to attend Ms. V's place of employment. As a result, a condition requiring him to keep away from her work place, recommended by police, was not ordered. An officer contacted Ms. V and informed her of the outcome of this proceeding.

Approximately two weeks after the accused was released on a Recognizance, Ms. V reported that the accused had placed a gift on her vehicle for her daughter. She was in contact with the officer on five occasions in May to provide information of other possible contraventions of the Recognizance. The later date is when Ms. V provided pertinent statements. The file was referred to the prosecutor following which additional investigation took place to determine the sources of certain text messages for court purposes. Some delays were reported in making contact with Ms. V to verify or follow up information. Ultimately the accused was arrested approximately six months later for offences related to these investigations and subsequently dealt with by the courts.

Under the provisions of section 35(2)(c) of *The Police Act, 1990*, the Chief of Police is responsible for discipline within the police service. The Act requires that the Chief of Police review the actions of the police officer(s) to determine if their conduct constitutes a violation of *The Municipal Police Discipline Regulations, 1991*. The Chief of Police reviewed these circumstances and recommended that the conduct of the officers did not warrant disciplinary action.

Ms. V was advised it is the responsibility of the Ministry of Justice, Public Prosecutions, to review investigations to determine if there is sufficient evidence to proceed with charges. Similarly, the courts are the appropriate authority to establish conditions of a court order or determine the guilt or innocence of an accused. The decisions of the courts and the Ministry of Justice, Public Prosecutions, are not within the purview of the Chief of Police or the PCC.

I advised Ms. V that it was very regrettable that she was injured and fearful that she may be harmed. I further advised that I understood that she believed the circumstances were clear and charges should have been sworn immediately. However, investigation was necessary to clarify inconsistencies in witness evidence related to the assault and to address technical issues to prove the suspect was the source of electronic communications. I was satisfied that the police service took her complaints very seriously and the officers conscientiously maintained contact with her, kept her updated and assessed possible changes in the risk presented. When a charge was not recommended, the investigator followed up with the Crown prosecutor to ensure all the evidence related to the assault incident had been considered. Similarly, enquiries were made to ensure the lack of the condition prohibiting the accused from her work place was not an error or oversight.

I concluded that neglect or unnecessary delays by the investigating officer(s) were not supported and therefore no reason to invoke discipline pursuant to *The Municipal Police Discipline Regulations, 1991*.

Ms. P

Ms. P complained that when her son, Mr. W, was arrested the officers used excessive force and her son was denied medical treatment. Several of her relatives and a community advocate also raised concern, based on marks and bruises visible on Mr. W's face and head following the incident. Photographs were taken of her son's injuries.

Mr. W stated that when police officers arrived at his location, he walked out the back door of the residence. In his words he said he "Kind of did and kind of didn't" know that there had been other reports to police about his actions earlier in the evening. Mr. W said that officers approached him and directed him to stop and go to his knees. He acknowledged ignoring the officers to some degree. He was subsequently held on the ground, searched and handcuffed. He said that his sandals came off in the process and he believed one of his toes was scraped or bruised at that time. Several officers arrived and he was taken and placed in the back of a police car and the vehicle seat belt placed around him.

One of the officers came to the vehicle and opened a door and leaned in to speak to Mr. W. The officer made a remark related to his attempting to kick him, then entered the vehicle and struck Mr. W several times in the head. Although Mr. W acknowledged being argumentative, he denied that he kicked or attempted to kick at the officer. Other officers came to assist and also struck Mr. W, who was secured further and a hood was placed over his head. He was transported to the police detention unit and the handcuffs and hood were removed once Mr. W was placed in a cell. He reported that he was suffering minor bleeding and asked for medical treatment, but this was refused. He acknowledged that he was yelling and banging around in the cell.

A charge related to assaulting a police officer was added to the initial charges after the fact and Mr. W felt that this was improper. The PCC directed the investigation of his public complaint be conducted on the PCC's behalf by the involved police service.

Police Service reports and records reveal that four reports were received within a two and

one-half hour time frame related to possible assaults or threats where Mr. W was identified as the suspect. Each time he was apparently gone on the arrival of officers. As the investigation(s) progressed, it was learned that he had been hiding at one of the residences when officers attended and a witness was too intimidated to tell officers this. One or more officers knew Mr. W from previous dealings and were aware that he had a history of violent behaviour. Officers believed that he could be arrested for the offences that were reported. Officers located him walking away from the back of a residence and commanded him to stop. Officers stated that he appeared to have cellular phones in each hand. Although he stopped as commanded, he did not comply with commands to put the objects in his hands down and to go to his knees. Mr. W commenced arguing with the officers. Officers took hold of Mr. W, forced him to the ground, held him down and he was handcuffed. When additional officers arrived, he was searched, escorted to a police car and secured with the seat belt. The vehicle was not equipped with a shield between the front and rear seat area.

An officer stated that he opened a door of the police vehicle to advise Mr. W of the reason for his arrest and usual rights and warnings as required by the law and policy. The officer stated that Mr. W kicked at him and he took steps to immediately subdue Mr. W by entering the vehicle and delivering several blows to the area of his head. Other officers, seeing the struggle, came to the assistance of the first officer. One or more of these officers acknowledged delivering blows as well. Considering Mr. W's behaviour and the presence of body fluids, he was placed in a "spit hood" and placed in a different police vehicle for transport. He was reported to have been argumentative, shouting and yelling during transport and on arrival at the police detention unit.

The officer responsible for the detention unit when Mr. W was in custody acknowledged the request for medical treatment. The officer evaluated his injuries, which appeared to be minor. Considering Mr. W's behaviour, the decision was taken not to provide him medical treatment at that time.

Since Mr. W had alleged excessive use of force, section 47 of *The Police Act, 1990*, requires the circumstances be reviewed by the Ministry of Justice, Public Prosecutions Division, to determine if the conduct of the police officer(s) constitutes a criminal offence. Following their review, Public Prosecutions recommended no charges against any officers.

Under the provisions of section 35(2)(c) of *The Police Act, 1990*, the Chief of Police is responsible for discipline within the police service. The Act requires that the Chief of Police review the actions of the police officer(s) to determine if their conduct constitutes a violation of *The Municipal Police Discipline Regulations, 1991*. The Chief of Police advised the PCC that this incident caused great concern. The Chief agreed that the officer entering the back of the police car was not planned and contributed to the increased need for further use of force options. The Chief was of the opinion that the officer's actions were a tactical error, not as a result of anger or retribution. The Chief of Police advised that action, in the form of Advice as to Future Conduct to the officers involved, had been taken with the expectation that a future similar situation is dealt with in a better manner. He recommended that formal disciplinary action was not warranted and the allegation of unnecessary use of force was unfounded.

The PCC's review of the investigation, based upon a balance of probabilities, determined the officer's actions directed toward Mr. W were unwarranted in the circumstances. The PCC was of the opinion the officer's decision was not made in good faith, nor was it a tactical error. The officer's decision to enter the rear seat of the police vehicle was not a planned response. Rather, it was an unreasonable emotional reaction to Mr. W's kicking motion directed toward the officer. The officer was not struck. The application of force was not necessary at this point as Mr. W was seated belted and handcuffed with his hands behind his back. What would have happened had the officer moved back and closed the police vehicle door? The officer did not take the time to assess any options other than immediately jumping into the police vehicle and pinning Mr. W against the rear passenger side door and applying multiple punches to the now struggling Mr. W.

I was satisfied that the investigation into Mr. W's complaints about the officers' actions was thorough, impartial and appropriately reviewed

by the Ministry of Justice and the Chief of Police. However, I disagreed with the Chief's evaluation and recommendation to the PCC. The officers were honest and forthright in describing their actions, including delivering several blows to Mr. W's face and head.

It was established that officers were lawfully executing their duty and authorized to arrest and secure Mr. W based on the reports and information received. Section 25(1) of the *Criminal Code* authorizes a police officer to use as much force as is necessary to accomplish her/his duty, provided that he or she acts on reasonable grounds.

The PCC takes complaints related to police officers' use of violence very seriously. At the same time, the Commission is judicious in second guessing officers' split second decisions, made in good faith. In these circumstances, the actions and history of the suspect were known by officers and strongly suggest the possibility of resistance and violence. Officers employed proper restraint, judgement, decision making and tactics in taking Mr. W into custody and securing him. When Mr. W kicked at the officer, he was secured in the back seat of a police vehicle, restrained by a seat belt and as noted, handcuffed with his hands behind his back. Mr. W's capacity to mount an attack on officers or escape was greatly reduced. The officer(s) had the opportunity to step back, reassess the situation and consider other possible options before entering the vehicle and delivering blows to Mr. W's head. At that point, it was not necessary to employ an escalation in the level of violence, without consideration of and/or failure of alternate options to gain control of Mr. W.

The PCC determined the allegation of unnecessary violence against the officer was substantiated. The PCC also recognizes that our findings are recommendations and not binding on the Chief of Police. The Chief of Police did not agree with the PCC'S recommendation that the use of violence was unnecessary. The Chief provided Advice as to Future Conduct for making a poor tactical decision.

Ms. M

Ms. M had complained that two officers had used unnecessary violence when she was arrested and taken into custody. Her initial statement of complaint, as outlined in this summary, did not include being kicked by a third officer in the detention area of the police service. Ms. M was intoxicated at the time of her arrest.

Ms. M provided information to a PCC investigator alleging abuse of authority and improper force by the arresting officers. She stated she encountered officers outside a shopping mall where she was looking for her friend and his vehicle. Police officers arrived and she stated that she had voluntarily entered the police officers' vehicle, on the understanding that they were transporting her home. Instead, she was taken to the police station, where she indicated that she was upset and refused to exit the vehicle. Ms. M stated that officers grabbed her arm and pulled her out of the car forcefully; held and twisted her arm causing pain. She told the officers to let go. She acknowledged that she called the officers "pigs" and spit in the face of an officer. Ms. M described being slammed face down to the concrete floor while officers twisted her arms resulting in a blackened eye and a broken arm. Ms. M was released the following morning without charges. She acknowledged having consumed alcohol prior to the incident with police.

Ms. M received a medical examination at a later time. With her consent, medical reports related to possible injuries were reviewed. It was not confirmed that her arm was injured to the extent that she described.

Police Service reports and records indicate that a report was received from a licensed premise located in the mall that a female, apparently under the influence of an intoxicant, refused to leave the business' patio. Officers arrived shortly and Ms. M was known to one of the officers. She displayed symptoms of intoxication, including the strong odour of alcohol. She was taken into custody for public intoxication and released when sober without charge. The officers did not report or recall Ms. M resisting or struggling during the arrest.

Shortly after receipt of Ms. M's complaint, the

PCC investigator reviewed the police service video surveillance recordings for the period that Ms. M was in custody. The video did not support her claim that she was forced to the floor in a manner that "smashed" her face into the floor after she was observed to spit toward a police officer. The video showed that a third officer, not directly involved in the initial arrest of Ms. M, had entered the detention area. In direct response to Ms. M's spitting, the officer clearly applied his foot in a forceful fashion to Ms. M's neck/head area and she was then forced to the floor by the two officers who were holding her by the arms when the third officer kicked her. It was also established that the use of force by officers during the incident was not reported to supervisory officers for review.

As she alleged improper use of force by an officer, the circumstances were reviewed by the Ministry of Justice, Public Prosecutions Division, who recommended a charge of assault under the *Criminal Code* against the officer. The court, after consideration of all the facts and submissions, including Ms. M's Victim Impact Statement, imposed an absolute discharge pursuant to section 730(1) of the *Criminal Code*.

Under the provisions of section 35(2)(c) of *The Police Act, 1990*, the Chief of Police is responsible for discipline within the police service. The Act requires that the Chief of Police review the actions of the police officer(s) to determine if their conduct constitutes a violation of *The Municipal Police Discipline Regulations, 1991*. The Chief of Police, with consent of the PCC, administered discipline to the officer pursuant to *The Municipal Police Discipline Regulations, 1991*. Abuse of Authority, a major offence related to the use of unnecessary violence, was found. Remedial action in the form of a reprimand, probation for one year and suspension without pay for the period of 160 hours was ordered.

Further, the Chief of Police advised that two other officers, present in the detention unit at the time of the incident, were found to have neglected duty by not informing a supervisor of the use of force and possible assault. With the consent of the PCC, the Chief of Police administered Advice as to Future Conduct to the officers as provided by section 4 of *The Municipal Police Discipline Regulations, 1991*.

On behalf of the PCC, I advised Ms. M that the circumstances were very regrettable, as was the possibility that her arm may have been injured in the incident. At the same time, I advised that the PCC was satisfied that the officers had good and sufficient cause to take her into custody initially under the provisions intended to protect intoxicated persons. Although Ms. M believed that she was tricked or misled when she was taken to the detention unit, it was not established that the officers acted improperly up to the point of the struggle in the detention unit. While an individual spitting towards a police officer is very objectionable, there are appropriate legal mechanisms to redress such behaviour.

The PCC was satisfied that Ms. M's concerns were thoroughly and impartially investigated and reviewed. The process came to an appropriate outcome consistent with the public interest.

Mr. T

Mr. T stated when he was arrested and escorted to the police detention facility, a police officer assaulted him by banging his head into the bars located near the elevator in detention. He sustained a cut to his eye and had marks on his wrists from the handcuffs. While Mr. T was in the elevator, he stated the officer nudged him and made threatening remarks. Mr. T stated he was injured after he and the officer came out of the elevator when the officer grabbed the chain of the handcuffs with one hand and banged his head against the bars two or three times with his other hand. This caused a cut above Mr. T's right eye. He stated he bled all over the place so the officer put a mesh bag over his head and he was not allowed to call a lawyer. By his own admission, he stated that he was intoxicated. On a scale of one to ten, with ten being most intoxicated, he described himself as a seven.

In order for the PCC to make an informed decision concerning Mr. T's allegations, police files and records in relation to his arrest and detention were obtained from the police service. A review of the information provided, including a copy of the 24-hour surveillance video, showed the arrival of police vehicles in the lower level of the police building. This included video of the elevator interior used to transport persons from the lower level to detention, the exit from the

elevator, and the booking in process. The video did not support Mr. T's recollection of the events.

The police report documented his arrest. He was described as extremely intoxicated, uncooperative, yelling at his girlfriend and resisting being handcuffed. En route to detention he was in a highly emotional state; screaming and kicking at the divider between the front and rear seats in the police vehicle.

The video shows that Mr. T exited the police vehicle without assistance and entered the elevator with two officers. There is conversation between him and the officers; unfortunately this particular system does not provide for audio recording. There was no physical contact until the elevator door opened and one officer put his hand on his arm to prevent him from walking into the booking area as there was another prisoner being processed. Mr. T had to wait in the caged area directly in front of the elevator, where at one point he was observed to pull away from the officer who then pushed him against the Plexiglas covering the bars and held Mr. T there until it was clear to enter the booking area. The officer used a minimal and acceptable amount of force to hold Mr. T against the Plexiglas. The video clearly showed that it was not possible for Mr. T's head to come into direct contact with the metal bars as he claimed.

The video shows Mr. T walking from this holding area to the booking counter, being held by the officer using one hand. The video clearly shows there were no marks or cuts to his head or eye area and he was not bleeding. He attempted to engage the officer in conversation and at one point, the officer used one hand to hold him against the booking counter. The video shows Mr. T putting his head down on the edge of the booking counter and then suddenly raising it and striking his head twice onto the surface of the booking counter. As his head came forward for the third time, the officer standing behind him, raised Mr. T's arms behind his back which then prevented him from further efforts to strike his head against the counter.

Mr. T's own actions caused a cut and bleeding from the area of his left eye. An officer standing behind the counter was observed to place a mesh bag over his head to prevent the blood from being splattered on the officers. This is an accepted practice intended to prevent the transmission of bodily fluids and the possible contamination of the police officers.

The video does not support Mr. T's recollection of the events. The marks on his wrists were caused when the officer raised his arms in an effort to prevent him from causing further injury to himself and cannot be deemed to be an unnecessary use of force in these circumstances.

The PCC is satisfied the officers involved in his arrest and subsequent detention were engaged in the lawful performance of their duties. The PCC is satisfied his injuries were self inflicted and not as the result of police conduct. The PCC therefore directed that the matter did not require further investigation and was terminated as unfounded.

Note: The value of the visual recording could have only been enhanced if the system was also equipped for audio. The quality of the visual recording was excellent and left no doubt as to the level of Mr. T's intoxication which may have impacted on his ability to fully recall the incident.

Mr. S

The complaint of Mr. S relates to the actions of several police officers regarding an incident where his daughter MMMS was assaulted with a baseball bat at about 3:20 a.m. He alleged that one or more officers failed to diligently perform their duty. MMMS described the incident where she and friends were accosted by unknown individuals and assaulted. She called 911 more than once from her cell phone. Although she did not know her exact location, MMMS described businesses that she could see from her hiding place. A taxi was flagged down and the driver agreed to take her to the police station. At the police station, she was refused entry after speaking to an individual on the intercom and told to call an ambulance from a pay phone. Officers were visible inside the police station; however, did not come to the locked door. An officer communicated that the office was closed.

Police Service reports, records including transcripts of radio, data and telephone communications were reviewed and on-duty personnel interviewed. The investigation

revealed that one of MMMS's companions reported the incident to 911 at about 3:07 a.m.; however at that time he was separated from MMMS and another companion and did not know where they were. 911 calls were received from MMMS on a cellular phone at 3:10 and 3:16 a.m. reporting the incident. She indicated that she was frightened, hiding and did not know exactly where she was. Each of the 911 calls were received by a different communications officer. The result was MMMS had to repeat information. Two or more other communications officers were involved in dispatching uniformed officers to the occurrence. Officers were in the area within about three minutes; however, they did not know where MMMS was located and no suspicious people or activities were observed.

MMMS made a third 911 call from outside the police station after having been transported there by a taxi. When MMMS arrived in the outer lobby of the police station, another police service employee answered the intercom. Transcripts confirmed that MMMS was not provided access to the locked door and it was suggested she call an ambulance if injured. There were at least two uniformed officers inside, one of who told MMMS the office was closed. These officers were occupied with other duties and were not aware of the 911 incident. Although MMMS and her companions could be seen in the outer lobby, the officers did not observe any visible injuries or danger. The lobby of the police station is not open for public access regarding routine matters during the silent hours. One police officer acknowledged advising people in the outer lobby that the office was closed.

Under the provisions of section 35(2)(c) of *The Police Act, 1990*, the Chief of Police is responsible for discipline within the police service. The Act requires that the Chief of Police review the actions of the police officer(s) to determine if their conduct constitutes a violation of *The Municipal Police Discipline Regulations, 1991*. The Chief of Police reviewed these circumstances and determined that there was a lack of response when MMMS needed assistance. Disciplinary action in the form of Advice as to Future Conduct was taken with respect to one officer. The Chief of Police also indicated that he met with one of MMMS's parents to explain the results of the investigation and apologize on behalf of the police service.

The legislated mandate of the PCC relates to the actions of police officers. Administration of a police service, service delivery, and policy and procedures fall under the purview of the Chief of Police and the local Board of Police Commissioners.

The PCC was satisfied that the complaint of Mr. S was thoroughly investigated and the Chief of Police had considered specific misconduct by the police service officers related to possible discreditable conduct or neglect of duty. However, it appeared that there were systemic failures in the response to MMMS's 911 calls for assistance. First, in the action taken by the communications staff who received the calls, then failures in communication within the communications centre, between the communications centre and police officers responding to the complaint, and finally in a failure to alert uniformed officers present in the police service building. As a result, the PCC recommended that the Chief of the Police Service thoroughly review these circumstances with a view to identifying and resolving deficiencies in the handling of MMMS's 911 calls to prevent a similar situation in the future.

The Chief of Police advised the PCC that the Service failed to provide an adequate level of service to MMMS in her time of need. The entire incident was reviewed from two perspectives; the actions of the employees and the operational/ administrative process that were followed. The Chief of Police provided the following summary of the actions taken: The officer who did not offer assistance at the police station was disciplined. The call taker in the communications centre who took the initial call, couldn't ascertain MMMS's location and did not try to determine where she was and did not direct MMMS to a safe location, is no longer employed by the police service.

In relation to the operational and administrative process a full review of policy and procedures was undertaken. A computer software program was installed in the communications centre's supervisor's console which allows the supervisor to listen and break into any incoming calls. A monitor was installed in the communications centre so the operator can actually see the person they are speaking with over the intercom in the front lobby. Additionally, the front lobby area had video recording equipment installed and the feasibility of installing an electronic

switch that would allow the communications supervisor to unlock the front door should immediate access to the police station be needed is being reviewed.

A review of the policy did not show deficiency. The communications break down was through human interaction.

The PCC was extremely pleased to acknowledge the excellent and forthright manner in which the Chief of Police addressed the concerns raised in this public complaint.

Mr. F

Mr. F is a pastor at an inner-city church. A member of his church, (referred as JD in this summary) confided with him that he was taken from a house by two uniformed male police officers between midnight and 2:00 a.m. JD told the pastor the officers drove him in an easterly direction, passing the police station and continuing out of the city for some distance. The officers stopped their car, took JD out of the car, assaulted him and left him there. JD supposedly walked back into the city to a service station.

The investigation determined the following facts:

- During the evening and night JD alleged he was taken by the police, there were four calls for service made to the police service that were in proximity to the general area surrounding the house.
- The first call came in at 8:51 p.m. and the complainant stated a male was assaulting a female at a home in the area. Numerous units attended the area and checked the given address with negative results. It was noted there appeared to be a party in the area.
- The second call came in at 11:20 p.m. The caller reported a very intoxicated male was stumbling all over the street into traffic. One police unit attended to the area a few minutes later and could not locate the male. The call was closed as "gone on arrival." The police unit had one male and one female officer in it.
- The third call for service came in at 1:12 a.m. The male caller stated someone tried to choke him at a house in the area. Three units attended to the call and dealt with the complainant. The two patrol units had one male and one female officer in each car. The third unit was a male sergeant.
- The fourth call for service came in at 1:49 a.m. The complainant stated she could hear fighting in the backyard of a house on the block. Numerous police units attended to the area at approximately 02:20 hours and noted the area was all quiet. The units cleared the call. The two patrol units had one male and one female officer in each car. The third unit was a male sergeant.

All the police service's patrol cars are equipped with Global Positioning System (GPS). The records showed that none of the units that attended to any of the above calls traveled east or any other way out of the city after clearing the calls. The records showed that no other uninvolved police units traveled east out of the city during the time period in question. None of the units that attended to the above calls had two males working in a car. The units all had male-female partnerships.

The investigator noted he searched all the photographs of the officers who were working the night in question and there were no partnerships that matched the description of the officers provided to Mr. F. by JD.

The investigator confirmed that a collect call had been made from the pay phone located outside the aforementioned service station at 08:12 hours to JD's girlfriend's phone. The phone call was not answered.

The PCC reviewed all evidence in this matter and determined there was no evidence to support JD's allegation that he was driven out of the city, assaulted by police officers and left to walk back to the city. Despite the efforts of Mr. F and the investigator, JD, who is known to the police, could not be located to provide a first-hand account of his allegations. Nevertheless, the police service and the PCC, in light of historical allegations of a similar nature, conducted a thorough investigation and could not verify JD's allegation.

Budget Allocation

The following figures show the approved budget for the 2011-12 fiscal year.

Approved Budget	**$629,000**
Grant - FSIN, Special Investigations Unit	168,900
Salaries, Honorariums, Per Diems	361,024
Operating Expenses	92,504
	$622,428